

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **VYK Trading Limited** for an On- Licence pursuant to section 100 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 19-21 Victoria Avenue, Whanganui and known as “High Kut Bistro”.

BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE

The application for a new On-Licence was advertised in the River City Press on the 29 July 2020; together with statutory signage on the building. No objections were received and no s. 103 reports noted any opposition.

Therefore the matter is considered by the Whanganui District Licensing Commissioner on the papers contained in the full file provided by the secretary in accordance with the provisions of s.202 (1) and 191(2) of the Sale and Supply of Alcohol Act 2012.

Commissioner: Stuart Hylton

RESERVED DECISION OF THE WHANGANUI DISTRICT LICENSING COMMITTEE

Application

(1)The application was made on the 19 August 2020 on the prescribed form. The application seeks to establish a new license for an existing restaurant at 19-21 Victoria Avenue, Whanganui. The applicant has obtained the necessary lease to hold and manage a Liquor Licence. The general nature of the business will continue to be that of a café/restaurant and alcohol will only be sold to seated customers i.e. no bar as such.

(2) The premises at 19-21 Victoria Avenue, Whanganui is owned by Seafeld Partnership Limited who have confirmed in writing that the applicant has a lease for the area in question including the ability to be licensed. The licensed area is the full client area which involves only nine table settings. The principle entrance is that off Victoria Avenue.

(3) The applicant is an incorporated company, incorporated in 2020, with two ‘hands on’ directors/shareholders and manager.

(4) The premise will be known as ‘High Kut Bistro’ and is seeking to be ‘undesignated’ which is suitable for a Restaurant type licence. The applicant provided evidence of suitable tenure, a letter in relation to evacuation planning compliance and a Certificate of Compliance from Council in relation to Building and Planning.

- (5) The complete file that the District Licensing Committee received included –
- The application
 - Certificate of incorporation
 - Floor plan
 - A s. 100(f) RMA/ Building Act compliance letter from Council
 - Letter from applicant's landlord agreeing to the application to be licensed.
 - Letter from landlord representative as having the necessary evacuation scheme
 - Copy of public notice on the building
 - Host Responsibility Policy
 - Copy of supporting letter from landlord
 - Full menu
 - Public Advert wording
 - Reports from Police, Medical Officer of Health and Inspector

Decision Making

(6) In considering this application for On-Licence the District licensing Committee (here in after referred to as the 'Committee') had regard to the criteria specified under s. 105 of the Act.

(7) the object of this Act:

This is a new operator within a newly established restaurant within a premise which under an old use, was licensed. The applicant provided a Host Responsibility Policy that shows how alcohol will be sold in a responsible manner under the licence. If followed this should ensure the object of the Act continues to be complied with. The applicant has the initial first year to show that they can operate the licence in accordance with the Act and the licence conditions. Sale of alcohol should be minimal at the premises and the operation is considered 'low risk'.

(8) the suitability of the applicant:

The applicant, VYK Limited, is an incorporated company with two directors/shareholders. The director has an interest to ensure the licence is a success and the statutory responsibilities are adhered to.

Two certified managers are named on the licence application. This is seen as adequate.

(9) The inspector and reporting agencies do not challenge suitability of the applicant and neither do I.

(10) any relevant local alcohol policy:

The Whanganui LAP has been adopted. The LAP allows for discretionary conditions relating to On-licences. The inspector has recommended that the following condition be placed on the licence stating –

- *The licensee will record and maintain a register of significant alcohol related incidents and have that register available for inspection by an enforcement officer at any time during trading hours.*

The applicant has signalled he is happy with this recommended condition to be included on the licence. On this basis these seem to be reasonable conditions to include. No other discretionary conditions under the LAP were recommended by any of the reporting agencies.

(11) the days on which and the hours during which the applicant proposes to sell alcohol:

The applicant has applied for the following days and hours –

- **Monday to Sunday, 9.00am to 10.00pm,**

(12) the design and layout of any proposed premises:

The application included a floor plan that shows the area to be licensed. This is an existing licensed footprint. The whole of the licensed premise is to be ‘undesigned’ which is supported by the inspector.

(13) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:

No.

(14) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:

Within the agency reports there are no concerns about the possible reduction in amenity and good order from any licence issue.

Whilst the premise is new, it is surrounded by other food and beverage premises within the Central Business Commercial zone which should ensure the amenity and good order of the locality are not effected by more than a minor extent.

(15) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—

- (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but**
- (ii) it is nevertheless desirable not to issue any further licences:**

No concerns raised.

(16) whether the applicant has appropriate systems, staff, and training to comply with the law:

If the host responsibility policy is followed the licence holder should have no problems with compliance. The applicant appears to be taking their licensing responsibilities seriously which should assist the premise to be run in a compliant manner.

Reporting Agencies

(17) The following reports were received under section 103 of the Act.

(18) **Police** – Report received on 9 September 2020, offering no opposition.

(19) **Medical Officer of Health** - Report received on 18 September 2020, offering no opposition.

(20) **Licensing Inspector**

Full report dated 21 September 2020. The inspector provided a comprehensive report into the application, has met the applicant and concluded that the application is complete, appears to meet the criteria for a new on-licence and therefore has no opposition to the application.

Committees Decision and Reason

(21) Based on the evidence provided to me within the complete file, lack of opposition from the relevant agencies, my assessment above, I conclude that the application meets the s. 105 criteria under the Act to be granted an on-licence for the premise situated at 19-21 Victoria Avenue, Whanganui and known as 'High Kut Bistro'.

(22) Accordingly the application is **approved** for issue for one year subject to the following conditions and payment of any outstanding fees, if any.

(23) The licence will be subject to the conditions contained in the Inspectors report.

3 Decision

Accordingly the application is **Approved** for issue from this date.

Dated at Whanganui District this 18 September 2020.

Signed


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Stuart Hylton
Whanganui District Licensing Commissioner

